

REMARKS

Claims 1, 13, 19, and 22 have been amended and new claims 23 and 24 have been added. Support for these amendments and new claims can be found at least on page 9, line 19 through page 10, line 13. Claim 12 has been canceled and its features incorporated into claim 1. Claim 4 has been canceled. In light of the above amendments, claims 1 – 3, 5 – 11, and 13 – 24 are currently pending in the subject application.

In the Office action mailed September 15, 2006, the drawings were objected to, claims 1 – 6, 13 – 15, 19, 20, and 22 were rejected under 35 U.S.C. 102(b), and claims 7 – 12, 16 – 18, and 21 were rejected under 35 U.S.C. §103(a). Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

Initially, the drawings were objected to for including a reference character not mentioned in the description (21a). Reference 21a has been corrected to read 20a. A Replacement Sheet including FIG. 9 is attached.

Claims 1 – 6, 13 – 15, 19, 20, and 22 stand rejected under 35U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,598,880 (“*Cross*”). This rejection is respectfully traversed since *Cross* does not disclose, teach, or suggest the features of amended independent claims 1 and 13 of, *inter alia*, a wall trim member including an elongated border made of a plurality of overlapping layers, wherein a first layer is positioned over a second layer to at least partially such that the second layer is exposed when viewed from the front side of the border. Additionally, *Cross* does not disclose, teach, or suggest the method of claims 19 and 22, wherein a wall trim member is connected to a wall utilizing a fastener.

Briefly, the trim member **20** of the present invention includes an elongated border **20a** having a front side **22** providing a desired decorative appearance and a back side **24** opposite the front side. The back side **24** of the border **20a** includes a releasable fastener **40b** that mates with a wall-attachable fastener **40a**. The border **20a** includes multiple overlapping layers. For example, a first layer of one material (e.g., cloth **28** or upholstery fringe **33**) may be positioned over a second layer of another material (e.g., felt **30** or woven fabric **31**) such that the second

layer is at least partially revealed beneath the first layer. *See* page 9, line 19 through page 10, line 13, FIGS. 1 – 4, and FIG. 8.

In contrast, *Cross* shows a top treatment for blinds including a header 10 is secured to a head rail 16 of a vertical blind. A pole sleeve 30 is provided with pleating tape 36 having hook-and-loop fastener sections 38 fastened along its back surface. As seen in FIG. 2, the sleeve 30 has a unitary structure formed from a single fabric material. The sleeve 30 further includes a drawstring 42 running along to sleeve that pulls the sleeve together to form a pleated valance. A complementary portion of the hook-and-loop fastener 28 is secured to the head rail 16, and the sleeve 30 is applied to the header 10 by engaging the hooks and loops with one another. *See* col. 4, lines 31 – 60. Thus *Cross*, while showing an elongated decorative border, does not disclose, teach, or suggest a wall trim member including a plurality of overlapping layers configured such that one layer exposes another layer. *Cross*, furthermore, does not disclose, teach, or suggest a wall trim member operable to fasten to a wall—the sleeve 30 must be used with a head rail 16 connected to header 10 in order to connect the decorative sleeve thereto. *See* col. 2, line 44 through col. 3, line 19.

Since *Cross* does not disclose, teach, or suggest the features of independent claims 1, 13, 19 and 22, these claims are considered to be in condition for allowance. Claims 2 – 12 and 14 – 18, 20 – 21, and 23 – 24 depend, either directly or indirectly, from independent claims 1, 13, 19, and 22 and, therefore, include all the limitations of their parent claims. These dependent claims are considered to be in condition for allowance for substantially the same reasons discussed above in relation to their independent claim and for further limitations recited in these claims.

Claims 7 – 11 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Cross*. As explained above, *Cross* does not disclose, teach, or suggest the features of amended independent claims 1 and 13 of a wall trim member including an elongated border made of a plurality of overlapping layers, wherein a first of layer is positioned over a second layer to at least partially reveal the second layer beneath the first layer when viewed from the front side of the border.

Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Cross* in view of U.S. Patent No. 511,971 (“*Seavey*”). As in initial matter, the general features of Claim 12 have been incorporated into claim 1. As explained above, *Cross* does not disclose, teach, or suggest the features of amended independent claim 1 of a wall trim member including an elongated border made of a plurality of overlapping layers, wherein a first of layer is positioned over a second layer to at least partially reveal the second layer beneath the first layer when viewed from the front side of the border.

Seavey does not compensate for the deficiencies of *Cross* and, similarly, does not disclose teach, or suggest these features. *Seavey* discusses a method of forming a decorative frieze whereby a front layer is placed into a mold, and successive layers adhered to the front layer to provide a durable structure for outdoor use. *See* lines 40 – 90. As clearly shown in FIG. 2, the layers are coextensive, with the front layer completely covering the rear layers. In contrast, amended independent claim 1 requires the elongated border to be formed from a plurality of overlapping layers, wherein a first of layer is positioned over a second layer to at least partially reveal the second layer beneath the first layer when viewed from the front side of the border. Claim 23 further requires the first layer and second layer to be formed of dissimilar materials. The layers of *Seavey*, in contrast, are each formed of identical material.

In addition, one skilled in the art would not be motivated to combine *Cross* with *Seavey* because such a combination would make *Cross* unsuitable for its intended purpose. Although it is not necessary that the inventions of the references be physically combinable, the claimed combination cannot change the principle of operation of the primary reference, or render the reference inoperable for its intended purpose. MPEP § 2143.01. That is, if a proposed modification renders the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See id.* One skilled in the art would not modify the cloth treatment for blinds disclosed by *Cross* by using the layer forming process of *Seavey* because the process forms a rigid structure suitable for outdoor use; as a result, it could not be wrapped around the head rail as required by *Cross* (i.e.,

forming the *Cross* treatment in the manner taught by *Seavey* creates an article that would crack if wrapped around the corners of the head rail).

Since neither *Cross* nor *Seavey*, alone or in combination, discloses, teaches, or suggests the features of independent claim 1, this claims are considered to be in condition for allowance.

Dependent claims 16 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Cross* in view of U.S. Patent No. 4,845,910 (“*Hanson et al.*”). As mentioned above, these claims depend, either directly or indirectly, from independent claim 13 and, therefore, include all the limitations of their parent claims. These dependent claims are considered to be in condition for allowance for substantially the same reasons discussed above in relation to their independent claim and for further limitations recited in these claims.

Claims 18 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Cross* in view of U.S. Patent No. 5,918,435 (“*McGowen*”). As mentioned above, these claims depend, either directly or indirectly, from independent claims 13 and 19 and, therefore, include all the limitations of their parent claims. These dependent claims are considered to be in condition for allowance for substantially the same reasons discussed above in relation to their independent claim and for further limitations recited in these claims.

In view of the foregoing, Applicants respectfully request the Examiner find the application to be in condition for allowance with regard to claims 1 – 3, 5 – 11, and 13 – 24. However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss any unresolved issues and to further expedite the disposition of the application.

U.S. PATENT APPLICATION NO. 10/828,806
RESPONSE TO 15 SEPTEMBER 2006 OFFICE ACTION

Applicant hereby petitions for any extension of time that may be necessary to maintain the pendency of this application at any point during the prosecution. The Commissioner is hereby authorized to charge payment of any additional fees required for the above-identified application or credit any overpayment to Deposit Account No. 05-0460.

Respectfully submitted,

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